

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15210 of the Boys and Girls Clubs of Greater Washington, pursuant to 11 DCMR 3108.1, for a special exception under Section 303 for a youth residential care home serving 10 male youths ages 6 to 13 years in the basement, first through third floors in an R-4 District at premises 1201 Harvard Street, N. W. (Square 2853, Lot 139).

HEARING DATE: January 17, 1990
DECISION DATE: February 7, 1990

FINDINGS OF FACT:

1. The subject site is located on the north side of Harvard Street, midway between 11th and 13th Streets, and is known as premises 1201 Harvard Street, N.W. It is zoned R-4.

2. The subject site is improved with a three-story plus basement brick row dwelling.

3. The site contains 2,436.5 square feet of lot area with a 16.66 foot frontage on Harvard Street and a depth of 146.25 feet. The site abuts a fifteen foot wide public alley to the north.

4. The subject premises is currently used as a youth residential care home for 10 residents, aged six through 13, pursuant to BZA Order No. 14117, dated September 14, 1984. BZA Order No. 14147 approved the use of the premises for a youth residential care home subject to the following conditions:

- a. Approval shall be for a period of **FOUR YEARS** from the date of the order.
- b. The applicant shall provide four parking spaces on-site.
- c. Operation of the facility shall be limited to the applicant only.
- d. Trash shall be removed by a private company twice a week.
- e. Meals and laundry service shall be provided on the subject premises.
- f. All supplies shall be delivered to the facility by van. The van shall be parked at the rear of the facility.
- g. The number of residents shall not exceed ten.

The Board's approval expired on September 14, 1988.

5. The applicant is seeking Board approval to continue to operate a youth residential care home at the subject premises. The Board may approve a youth residential care home for nine to fifteen persons, exclusive of staff, subject to the following provisions:

- a. There shall be no other property containing a community-based residential facility for five (5) or more persons in the same square.
- b. There shall be no other property containing a community-based residential facility for five (5) or more persons within a radius of five hundred feet (500') from any portion of the subject property.
- c. There shall be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- d. The proposed facility shall meet all applicable code and licensing requirements.
- e. The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- f. The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500') only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- g. In the case of a community residence facility, the Board may approve a facility for more than fifteen (15) persons, not including resident supervisors and their families, only if the Board finds that the program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location, and if there is no other reasonable alternative to meet the program needs of that area of the District.
- h. The Board shall submit the application to the Director of the Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Departments of Public Works, Human Services, and Corrections and, if a historic district or historic landmark is

involved, of the State Historic Preservation Officer.

6. The applicant testified that the facility has operated in accordance with the conditions imposed by BZA Order No, 14147 with the exception of the expiration date and that there have been no changes in the operations of the facility. The applicant testified that it may reduce the number of residents from ten to eight in the future due to constraints relative to building size.

7. The Zoning Regulations require that two on-site parking spaces be provided to serve the proposed use. There is a parking credit of one space for the subject premises. The applicant is therefore required to provide only one on-site parking space. The subject site has access to the rear yard through the existing fifteen foot public alley. The applicant currently provides four off-street parking spaces at the rear of the site. Two of the parking spaces are occupied by the House Manager and the senior counselor. The remaining two parking spaces accommodate the 15-passenger van utilized by the subject facility.

8. The total number of staff at present is eight full time and four part time, providing twenty-four coverage at the facility, seven days a week. There will be no increase of staff if the requested special exception is granted. Only two staff persons are present at the site at one time. The use generates very few visitors to the site and the residents are too young to drive. The proposed parking is therefore adequate to provide staff and visitor parking.

9. The subject facility is designed to provide a home-like environment for up to ten residents at one time with a projected turnover of between ninety and 100 residents per year with an average stay of thirty to ninety days. Residents are abused or neglected children who are brought to the facility by a social worker who will park at the rear of the site. Meals and laundry services are provided at the subject premises and supplies are purchased and delivered to the site in the applicant's van in much the same manner as would occur for a single family use of the premises. Trash is removed from the site by a private company approximately twice per week.

10. The applicant provides van service to transport the residents to doctor/dentist appointments and all off-site activities. The van uses the off-street parking to the rear of the site. The residents are enrolled in local public schools and will walk to those schools or use public transportation as necessary.

11. The residents are closely supervised at all times and must meet strict curfews. Evening, weekend and summer activities

include tutoring sessions, library visits, job programs, trips to museums, bike rides, hikes, picnics and other Boys and Girls Club activities. All activities are supervised by staff.

12. The subject facility is operated pursuant to a contract with the Department of Human Services and has been inspected and approved as meeting all code and licensing requirements. The applicant has received no complaint regarding the operation of the facility.

13. The immediate neighborhood of the subject site is generally zoned R-4 and is characterized by row dwellings of similar bulk and style. One block west of the subject premises is an R-5-C District encompassing the Columbia Heights Village Apartment. To the north of that R-5-C District is a varied commercial strip running along 14th Street. The Columbia Heights Metro Station is planned for the intersection of 14th and Irving Street, N.W.

14. The Board may approve more than one community based residential facility in a square or within 500 feet only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood adverse impact on the neighborhood.

15. In its previous order, the Board found that there were two community residence facilities within the same square as the subject site. The facility at 1238 Harvard Street serves five to ten residents, aged thirteen to sixteen years, with eight full-time and four part-time employees. This facility is operated pursuant to contract with the Department of Rehabilitation. The facility at 1308 Girard Street is approximately 800' feet from the subject site and serves ten residents, aged thirteen to eighteen. This facility is also operated by the Department of Rehabilitation. In that case, the Board found that because of the difference of program activities, program outline and ages of the residents, the subject facility would not have an adverse impact on the neighborhood.

16. The Office of Planning, by memorandum dated January 9, 1990, recommended conditional approval of the application. The OP was of the opinion that the successful operation of the facility for several years suggests that it can operate in harmony with the general purpose of the Zoning Regulations. The OP noted that a listing by the D.C. Office of Community Based Residential Facilities indicates the existence of five CBRF's within 500' feet of the subject site and eight CBRF's within a one-block radius, including the subject facility. Based on that data, the OP was of the opinion that the neighborhoods that surround the subject site appear to have reached their capacity for the location of CRF's. The OP was of the opinion, however, that the subject facility

provides a needed service for city residents and supports the underlying philosophy of the Zoning Regulations to provide for the public welfare and, therefore, the operation of the subject facility should be continued with the following conditions:

- a. Approval shall be for a period of five years from the date of the Order;
- b. The applicant shall provide two parking spaces on-site;
- c. Operation of the facility shall be limited to the applicant only;
- d. The applicant must comply with all applicable D.C. municipal regulations;
- e. Trash shall be removed from the premises by a private company twice a week;
- f. Meals and laundry service shall be provided on the subject premises;
- g. Loading and unloading of supplies and other materials shall take place from the rear of the facility; and
- h. The number of residents shall not exceed ten.

17. The Department of Human Services, by memorandum dated January 11, 1990, supported the granting of the application. The facility is funded by the DHS's Commission on Social Services Family Services Administration. The DHS noted that, although geographical assessments of the area suggest that the community is saturated with CRF's it has received no complaints regarding the subject facility. Based on the track record of the subject facility in providing a vital service to troubled youth in the city, the DHS recommended approval of the application.

18. The Board waived its seven-day filing requirement to accept the report of Advisory Neighborhood Commission (ANC) 1B. ANC-1B, by letter dated January 16, 1990 and by representatives at the public hearing opposed the granting of the application. The ANC's issues and concerns are generally summarized as follows:

- a. The high concentration of group homes in the Columbia Heights community places an undue burden on the area and may adversely affect the community in terms of the loss of property values, and additional strain on the limited available parking in the area.
- b. The concentration of group homes in the area should

establish the lack of need to grant the relief sought in this case.

- c. The special exception process offers an opportunity to minimize or eliminate undesirable uses and should be used so as not to encourage further or continued overconcentration of group homes in a single community.

19. The Columbia Heights Neighborhood Coalition, by letter dated January 17, 1990 and by representative at the public hearing, opposed the application, generally based on the following issues:

- a. There is an existing CRF in the same square as the subject site at 1238 Harvard Street, N.W.
- b. There are approximately ten CFR's within 500 feet of the subject property including 1315 Irving Street, 1308 Girard Street, 1238 Harvard Street, 1444 Harvard Street, 1002 Columbia Road, 1318 Harvard Street, 1320 Harvard Street, 1307 Irving Street, 1305 Irving Street, and 1427 Harvard Street, N.W.
- c. The subject facility has only one off-street parking space.
- d. There have been numerous complaints from neighbors about noise, vandalism and destruction of property by residents of the facility.
- e. There are numerous similar facilities in the area including six youth residential care homes and four youth rehabilitation homes in the Columbia Heights neighborhood.
- f. The dense concentration of such facilities in the area is inconsistent with the policy set forth in Z.C. Order No. 347 and is having a detrimental impact on the quality of life and residential character of the neighborhood.
- g. It is difficult to adequately account for all the CRF's in the neighborhood because the operators often operate under inappropriate Certificates of Occupancy for such uses as apartment buildings or rooming houses while providing services more suitable for CRF's.

20. The Girard Street Association, by letter dated January 16, 1990 and by representative at the public hearing opposed the granting of the application for the following reasons:

- a. It exceeds the number of permissible CRF's in that square.

- b. It creates an undue density of CRF's in the community.
- c. It would have an adverse effect on the neighborhood in terms of noise, traffic and operations.

21. The owner of the property located at 1219 Harvard Street testified at the public hearing in opposition to the application due to the existing density of facilities in the area and their impact on the community.

22. The record contains one letter in support of the application from the resident of 1128 Columbia Road based on the general attitude of the residents of the premises and the valuable service provided by the facility.

23. In addressing the issues and concerns expressed by the ANC and the opposition, the Board finds that the overriding concern expressed relates to the oversaturation of the neighborhood with CRF's rather than the operational characteristics demonstrated by the subject facility since its approval. The Board shares the community's concerns regarding the proliferation of CRF's in the area. However, the Board notes that of the ten properties listed by the Columbia Heights Neighborhood Coalition as CRF's located within 500' feet of the site, only two have been before the Board; 1315 Irving Street, a CRF for ten residents, and 1307 Irving Street, a community center. The Board further notes that if the operation of any of the listed facilities is not in compliance with the Zoning Regulations, or does not comply with the Certificate of Occupancy in effect for the property in question, the appropriate redress should be sought through the enforcement branch of the D.C. Department of Consumer and Regulatory Affairs.

24. Based on the evidence presented, the Board finds that the subject facility has operated in compliance with the Board's previous approval at the subject site for several years without any substantial adverse impact on the neighborhood.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires evidence of substantial compliance with the criteria set forth in Section 303. The Board concludes that the applicant has so complied. There is adequate on-site parking provided to serve the needs of employees and visitors to the site. The facility meets all applicable code and licensing requirements. The facility has operated in accordance with the Board's previous approval for several years without adverse impacts on the neighborhood because of noise, traffic, or operation. The effect of the subject facility on the cumulative impact of the existing facilities within 500' feet will be

negligible as the subject facility serves only ten residents and provides for different programs and services to different age groups than the current legally existing facilities.


The Board concludes that the ANC has been afforded the "great weight" to which it is entitled. The Board further concludes that, as hereinafter conditioned, the approval of the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of THREE YEARS.
2. The applicant shall provide four parking spaces on-site.
3. Trash shall be removed by a private company at least twice per week.
4. Meals and laundry service shall be provided on the premises.
5. All supplies shall be delivered to the facility by van. The van shall be parked at the rear of the facility.
6. The number of residents shall not exceed ten.
7. The applicant shall appoint a community liaison representative to receive and respond to any complaints from or concerns raised by the community. The applicant shall provide the name and telephone number of the appointed liaison to the ANC, other neighborhood community groups, and nearby neighbors.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

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FINAL DATE OF ORDER: SEP 24 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15210/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL NO. 15210

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated SEP 24 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:


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EDWARD L. CURRY
Executive Director

DATE: SEP 24 1991